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FM AMEMBASSY ANKARA
TO RUEHC/SECSTATE WASHDC 6908
INFO RUEAWJB/DOJ WASHDC
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RUEHBS/AMEMBASSY BRUSSELS 6740
RUEHFR/AMEMBASSY PARIS 5446
RUEHCP/AMEMBASSY COPENHAGEN 0274
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UNCLAS ANKARA 001306

SENSITIVE
SIPDIS

DOJ/DAAG SWARTZ, OPDAT/ALEXANDRE, OIA/WARLOW

E.O. 12958: N/A
TAGS: [PTER](#) [PGOV](#) [TU](#)
SUBJECT: TERRORIST EXTRADITION ROUNDTABLE IN ISTANBUL

11. (SBU) SUMMARY: Top terrorism prosecutors and judges from Turkey, Austria, Belgium, Denmark, France, Iraq, Netherlands, Spain and Switzerland met in Istanbul, Turkey June 24-26, 2008 to discuss their respective practices and overcome obstacles in extraditing terrorists. The meeting, co-hosted by DOJ and Turkey's Ministry of Justice, responded to a Turkish request to bring Europeans to Turkey for an informal dialogue on problems related to extraditing terrorists to Turkey. EU Coordinator for Counterterrorism, Gilles De Kerchove, MOJ Deputy Undersecretary Ahmet Kahraman and Consul General Sharon Weiner emphasized the importance of a strong and unified fight against terrorism and the much needed tool of extradition. Each country presented its legal regime and practical solutions in the extradition of terrorists. Iraqi judges provided insight into the status of prior extradition treaties and the US discussed its historical relationship with Colombia in developing a strong extradition partnership. END SUMMARY

Bringing the Parties Together for Meaningful Dialogue

12. (SBU) On June 24-26 terrorism prosecutors, judicial officials and extradition experts met in Istanbul to discuss how to improve cooperation and effective extradition practices with Turkey. Turkey's MOJ General Directorate for International Law and Foreign Relations had requested that DOJ's first Resident Legal Advisor, Suzanne Hayden, provide a platform for key European countries to discuss extradition problems related to Turkey. Each of the top terrorism prosecutors in Turkey, the Chief Public Prosecutors for Istanbul and Ankara, the Deputy Undersecretary of Justice, Director General and judges from the Directorate for International Matters represented Turkey. Europeans included Switzerland's Head of Extradition, Spain's Chief Prosecutor, Austria's Head of International Penal law and her advisor, Netherlands' National Terrorism Officer and extradition expert, Denmark's Chief Prosecutor and the Deputy Director for Prosecution of Copenhagen, Belgium's Law Enforcement Liaison Officer, and France's Liaison Magistrate. Each country presented its perspectives and practices on the extradition of terrorists and the challenges of extraditing suspects to Turkey. Turkey provided its experience in overcoming rejected extradition requests and discussed the application of its anti-terror laws. The Turkish National Police Intelligence Unit (TNP/I) provided an overview of terrorist groups in Turkey and set the stage for discussions.

Terrorists in Turkey -- Leftist

13. (SBU) TNP/I presented an over-view of leftist (DHKP/C), PKK and religiously motivated terrorist organizations in Turkey, including

historical background and current status. TNP/I believes that the DHKP/C has 150-200 active members and approximately 3,000 supporters/family members. All support for the terrorist activities of DHKP/C is illegal and any cultural activities organized to raise funds in support of the terrorist activities are also considered illegal.

PKK

14. (SBU) TNP described the PKK as the primary rightist terrorist group in Turkey, divided into a number of subgroups to camouflage its activities. These include TAK, TTK, DIH, Eastern Turkey revenge groups, Kurdish revenge groups and others. They estimate 2,350 PKK members are in Northern Iraq, 800 of whom conduct terrorist activities in Turkey from Iraq. The police described the three most significant recent attacks by PKK: a) 22 May 2007 in Ankara which killed 9 civilians and injured 91. The attacker had first trained at a camp in the Netherlands and then traveled to N. Iraq; b) 11 September 2007 when explosives were found in Ankara city center; and c) 3 January 2008 attack in Diyarbakir when 7 civilians were killed and 90 civilians and 26 soldiers were injured.

15. (SBU) TNP described PKK as an organization that has lost its good reputation in the past few years because of its attacks against Turkish/Kurdish civilians. From 2000-2008 6,417 PKK members submitted applications under the repentance law and 1,205 surrendered to authorities.

16. (SBU) TNP argued that the PKK's connection to Europe is three-pronged: recruitment, financing and propaganda. They asked the Europeans for increased cooperation and scrutiny of PKK. TNP has provided intelligence to relevant countries but is frustrated because PKK members sought in Europe through Interpol Red Notices have not been extradited to Turkey. They listed five leading PKK operatives who have taken refuge in Europe: a) Zubeyir Aydar, Kongra Gel chairman, granted asylum in Switzerland; b) Remzi Kartal, member of KNR foreign relations unit; c) Riza Altun, formerly "responsible for Europe;" d) Nedim Sevin, financial coordinator for the PKK in Europe ("the safe"); and e) Mehmet Esiyor, formerly responsible for CDK in Russia, currently under arrest in Switzerland for murder.

Religiously Motivated

17. (SBU) Religiously motivated groups were divided by TNP into three types: a) violent (Tawhid, Tagut, Jihad) b) radical religious groups which have not resorted to violence to date; and c) non-violent-religious orders and sects. The first group includes Al-Qaeda and its affiliates, and Turkey has become both a transit point and target for these groups, according to the TNP. Turkish Hezbollah, the most important Turkish religiously motivated organization, established in Diyarbakir in 1992, is not related to Lebanese Hezbollah. This group is believed to have killed approximately 500 PKK members and operates from Switzerland and Germany since its leaders were captured in an operation in Istanbul in 2000.

Need for Personal Relationships, Direct Access

18. (SBU) Following the TNP presentation, the various European representatives discussed extradition laws and practices. A number of presenters reiterated the need for the requesting and source country to be on the same page. While all began by stating that extradition was the same for any crime, several admitted in their discussions that extraditions for terrorism required a higher standard due to the political sensitivities involved. Having a clear explanation reinforced by precise description of the crimes alleged to have been committed assist in determining a state's ability to extradite. Each country urged Turkey to contact the requested country and provide a point of contact for further information. The Europeans described EUROJUST as a good tool for facilitating the flow of information and stated the need for quick access to counterparts for additional information.

19. (SBU) The European participants repeatedly raised the need for confidence and trust as foundations for successful extradition requests. Each requested state must feel that the requesting state will conform to international and human rights standards. Adding to the problem of consistent and fair extradition proceedings, in

several countries initial hearings in an extradition case are not centrally coordinated . Therefore, a prosecutor can make an uninformed or ad hoc decision without knowing the current humanitarian situation in the requesting country.

Examples that work

¶10. (SBU) Mary Lee Warren, DOJ's Counsel to the EU, described the US's efforts with Colombia to overcome a constitutional ban on extradition of its nationals, difficulty in transferring proceedings to Colombia to try its citizen, and the transition to a fully cooperative extradition regime in which the US and others can seek and receive defendants for trial. ¶11. (SBU) Iraqi judges identified Iraq's current counter-terrorism laws and stated that the current laws -- such as its 1936 extradition treaty with the US, its 1932 and 1947 agreements with Turkey and its 1983 "Riyadh agreement with fellow Arab countries" -- are all still in effect.

The Shield of Asylum Status

¶12. (SBU) Several European participants discussed asylum as an obstacle to appropriate extradition and explained that the Council of Europe and the EU are aware of that specific problem and are working to address it. Turkey stated that, as a requesting country, this was one of the most difficult aspects to understand and suggested that individuals who had committed terrorist acts should not be given asylum. A number of countries stated that the issue confronting them now was how and under what circumstances to withdraw asylum status. France described the number of individuals seeking asylum with obviously forged or false documents and lamented there was no way to contact Turkey informally for information on their authenticity. This, too, has resulted in the unintended but necessary granting of protected status.

¶13. (SBU) Turkey stated that the most common grounds in rejected extradition requests are a) right of asylum, b) political crimes, c) lack of dual criminality, d) the perceived potential for torture and maltreatment in Turkey. It pointed out that in the last 20 years, only three individuals accused of terrorism have been extradited (Orhan Ozdemir (Hizbullah) from Austria in 2004; Mehmet Ittas (PKK) from Germany in 2007 and Mehmet Esref Kizilay (PKK) from Germany in 2007).

¶14. (SBU) In all cases, the countries present stated that regarding dual criminality, the factual basis and not the nomenclature would be judged as the critical element to trigger extradition. A lengthy discussion ensued regarding a scenario in which material support for terrorism might not be extraditable under Turkey's terrorist financing law, but would under its terrorism law. Again, Turkey was urged to be accessible via email or telephone to discuss the request with the requested country's Justice Representative.

¶15. (SBU) COMMENT: Throughout the three days, the participants discussed and compared their legislation and practices and provided candid acknowledgement of the strengths and deficiencies of their own laws. In this group, Turkey was the only country to have defined "terrorism" pre-9/11. Countries such as Belgium and Austria did not have a terrorism law until 2004. All of the participants reiterated their belief in the importance of the Roundtable as a first step and several asked to have a second conference in which they would be willing to bring and discuss their files. Individually, the European participants related that the Roundtable was an important step in showing Turkish authorities that they would like to develop a closer and more successful Justice-to-Justice relationship.

WILSON